

111TH CONGRESS
2D SESSION

S. 3297

To update United States policy and authorities to help advance a genuine transition to democracy and to promote economic recovery in Zimbabwe.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2010

Mr. FEINGOLD (for himself, Mr. ISAKSON, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To update United States policy and authorities to help advance a genuine transition to democracy and to promote economic recovery in Zimbabwe.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Zimbabwe Transition
5 to Democracy and Economic Recovery Act of 2010.”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Foreign Relations,
5 the Committee on Banking, Housing, and
6 Urban Affairs, and the Committee on Appro-
7 priations of the Senate; and

8 (B) the Committee on Foreign Affairs, the
9 Committee on Financial Services, and the Com-
10 mittee on Appropriations of the House of Rep-
11 resentatives.

12 (2) INTERNATIONAL FINANCIAL INSTITU-
13 TIONS.—The term “international financial institu-
14 tions” means the multilateral development banks
15 and the International Monetary Fund.

16 (3) MULTILATERAL DEVELOPMENT BANKS.—
17 The term “multilateral development banks”
18 means—

19 (A) the International Bank for Reconstruc-
20 tion and Development;

21 (B) the International Development Asso-
22 ciation;

23 (C) the International Finance Corporation;

24 (D) the Inter-American Development
25 Bank;

- 1 (E) the Asian Development Bank;
2 (F) the Inter-American Investment Cor-
3 poration;
4 (G) the African Development Bank;
5 (H) the African Development Fund;
6 (I) the European Bank for Reconstruction
7 and Development; and
8 (J) the Multilateral Investment Guarantee
9 Agency.

10 **SEC. 3. FINDINGS.**

11 Congress makes the following findings:

12 (1) In the last decade, Robert Mugabe and his
13 government presided over the collapse of Zimbabwe's
14 economy and a dramatic decline in the living condi-
15 tions of the people of Zimbabwe, while employing
16 violent tactics to maintain power.

17 (2) Through economic mismanagement and un-
18 democratic practices over the past decade, the Gov-
19 ernment of Zimbabwe rendered itself ineligible to re-
20 ceive new loans, credits, or guarantees from most
21 international financial institutions, which would oth-
22 erwise be providing substantial resources to assist in
23 the recovery and modernization of Zimbabwe's econ-
24 omy and which would have benefitted the people of
25 Zimbabwe.

1 (3) In September 2008, after months of polit-
 2 ical violence against opposition members and their
 3 supporters following disputed national elections,
 4 Robert Mugabe’s party, the Zimbabwean African
 5 National Union-Patriotic Front (ZANU–PF), signed
 6 a “Global Political Agreement” (GPA) with both
 7 factions of the opposition Movement for Democratic
 8 Change (MDC), respectively led by Morgan
 9 Tsvangirai and Arthur Mutambara, to form a tran-
 10 sitional government, which was inaugurated in Feb-
 11 ruary 2009.

12 (4) In the GPA, which has been enshrined in
 13 the constitution of Zimbabwe and guaranteed by the
 14 Southern African Development Community (SADC)
 15 and the African Union (AU), the parties declared
 16 their commitment to “work together to create a gen-
 17 uine, viable, permanent, sustainable, and nationally
 18 acceptable solution to the Zimbabwe situation and in
 19 particular to implement the following agreement
 20 with the aims of resolving once and for all the cur-
 21 rent political and economic situations and charting
 22 a new political direction for the country”.

23 (5) Under the direction of the new Prime Min-
 24 ister, Morgan Tsvangirai, and Minister of Finance,
 25 Tendai Biti, both from the MDC, the transitional

1 government in Zimbabwe has initiated a series of
2 critical economic reforms, putting a stop to some of
3 the quasi-fiscal activities of the previous administra-
4 tion, resuming salary payments to civil servants, and
5 directing limited budget resources toward critical so-
6 cial protection services and infrastructure repairs.

7 (6) While reform-minded members of the new
8 coalition government have made some progress in
9 initiating reforms in the economic sector, the agree-
10 ment has yet to be fully implemented, and political
11 and human rights abuses continue, in contravention
12 of the Global Political Agreement signed by the par-
13 ties.

14 (7) As of the date of the enactment of this Act,
15 state security forces remain largely under the control
16 of ZANU–PF and continue to harass MDC sup-
17 porters and civic activists in Zimbabwe, to force ille-
18 gal and often violent seizures of private land and
19 property, and to exert extrajudicial control of dia-
20 mond fields in the Marange district of eastern
21 Zimbabwe.

22 (8) The continued disrespect for the rule of law
23 and property rights in Zimbabwe deters much need-
24 ed private investment in the country.

1 (9) The formation of the transitional govern-
2 ment has brought changes to the political landscape
3 in Zimbabwe and created new opportunities for the
4 United States and others to help advance real re-
5 form and recovery by engaging with those in the
6 government who share those goals, while continuing
7 to put targeted pressure on those who are under-
8 mining the rule of law.

9 **SEC. 4. STATEMENT OF POLICY.**

10 It is the policy of the United States to support the
11 people of Zimbabwe in their struggle to affect peaceful,
12 democratic change, achieve broad-based and equitable eco-
13 nomic growth, and restore the rule of law, including
14 through—

15 (1) the continued provision of humanitarian as-
16 sistance to meet the urgent needs of the people of
17 Zimbabwe;

18 (2) increased resources through non-govern-
19 mental entities to provide assistance to the critical
20 agriculture, economic, education, and health sectors;

21 (3) the promotion of trade by United States
22 companies with Zimbabwe to stimulate the country's
23 economic growth and support the livelihoods of its
24 people;

1 (4) engagement and close consultation with re-
2 gional governments and organizations, international
3 financial institutions, and other donors to push for
4 the full implementation of the Global Political
5 Agreement and provide targeted support for funda-
6 mental reforms in Zimbabwe;

7 (5) continued support for and engagement with
8 civil society organizations in their efforts to promote
9 the rule of law and respect for human rights in
10 Zimbabwe, including through their contributions to
11 the development of a new democratic constitution;

12 (6) technical assistance to those within the
13 transitional government in Zimbabwe who dem-
14 onstrate commitment to fundamental reforms in line
15 with the Global Political Agreement;

16 (7) the continuation of the ban on the transfer
17 of defense items and services and the suspension of
18 direct monetary assistance to the Government of
19 Zimbabwe until there is greater progress toward re-
20 storing the rule of law, civilian control over security
21 forces, and respect for human rights; and

22 (8) the updating and renewal of targeted finan-
23 cial sanctions and travel bans against those found to
24 be responsible for the deliberate breakdown of the
25 rule of law, politically motivated violence, hindrance

1 of democracy, and other ongoing illegal activities in
2 Zimbabwe.

3 **SEC. 5. TECHNICAL ASSISTANCE TO THE TRANSITIONAL**
4 **GOVERNMENT OF ZIMBABWE TO SUPPORT**
5 **REFORMS.**

6 (a) **AUTHORITY.**—In accordance with section 531 of
7 the Foreign Assistance Act of 1961 (22 U.S.C. 2346) and
8 notwithstanding any other provision of law, the President
9 is authorized to provide technical assistance to ministries
10 of the transitional Government of Zimbabwe and to the
11 Parliament of Zimbabwe to provide the expertise and sup-
12 port necessary to ensure progress on economic, political,
13 and security sector reforms.

14 (b) **SENSE OF CONGRESS.**—It is the sense of Con-
15 gress that—

16 (1) the transitional Government of Zimbabwe
17 should work to fully enact the economic, political,
18 and security sector reforms envisaged under the
19 Global Political Agreement;

20 (2) the United States should continue to pro-
21 vide technical assistance to build the capacity of
22 ministries and offices within the transitional Govern-
23 ment of Zimbabwe that demonstrate a commitment
24 to those reforms;

1 (3) the Parliament of Zimbabwe should work to
 2 make the government in that country accountable
 3 and to hasten the pace of reform; and

4 (4) the United States should continue to pro-
 5 vide technical assistance as needed to the Parliament
 6 of Zimbabwe to support efforts to review, and as
 7 necessary, amend or repeal legislation that—

8 (A) violates freedom of expression, assem-
 9 bly, or association; or

10 (B) violates private property rights and de-
 11 ters much-needed private investment.

12 **SEC. 6. SUPPORT FOR LAND REFORM, AGRICULTURAL DE-**
 13 **VELOPMENT, AND FOOD SECURITY TO LAY**
 14 **THE GROUNDWORK FOR ECONOMIC RECOV-**
 15 **ERY.**

16 (a) LAND REFORM.—It is the sense of Congress
 17 that—

18 (1) the absence of respect for property rights in
 19 Zimbabwe continues to hinder agricultural produc-
 20 tivity and economic recovery; and

21 (2) the United States should support credible
 22 efforts to conduct a comprehensive, transparent, and
 23 non-partisan land audit as a critical step toward es-
 24 tablishing accountability and security of tenure.

1 (b) FOOD DISTRIBUTION AND PRODUCTION.—It is
 2 the sense of Congress that United States assistance to
 3 Zimbabwe should, to the extent possible given existing
 4 concerns about land tenure security—

5 (1) support market-based mechanisms for the
 6 provision of credit and access to the inputs nec-
 7 essary for agricultural production and for the han-
 8 dling, marketing, storage, and processing of agricul-
 9 tural commodities;

10 (2) encourage policies that provide incentives
 11 for agricultural production; and

12 (3) support institutions that provide technical
 13 and financial support for the agriculture sector.

14 **SEC. 7. AMENDMENT TO THE ZIMBABWE DEMOCRACY AND**
 15 **ECONOMIC RECOVERY ACT OF 2001 TO RE-**
 16 **SPOND TO ZIMBABWE’S POLITICAL TRANSI-**
 17 **TION.**

18 Section 4 of the Zimbabwe Democracy and Economic
 19 Recovery Act of 2001 (Public Law No. 107–99; 115 Stat.
 20 962) is amended to read as follows:

21 **“SEC. 4. SUPPORT FOR DEMOCRATIC TRANSITION AND**
 22 **ECONOMIC RECOVERY.**

23 “(a) FINDINGS.—Congress finds that the parties to
 24 the September 15, 2008, Global Political Agreement be-
 25 tween the Zimbabwe African National Union-Patriotic

1 Front (ZANU–PF) and the Movement for Democratic
2 Change (MDC) committed themselves by law to work to-
3 gether to chart a new political direction for Zimbabwe, to
4 prioritize the restoration of economic stability and growth,
5 and to create conditions for the drafting of a new constitu-
6 tion that respects human rights and democratic principles.

7 “(b) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that, in order for the United States to most effec-
9 tively support a transition to democratic and economic re-
10 covery in Zimbabwe to the greatest effect, United States
11 policy should, to the extent possible, reflect new political
12 conditions and opportunities created by the Global Polit-
13 ical Agreement.

14 “(c) DEBT RELIEF.—The Secretary of the Treasury,
15 in consultation with the Secretary of State, shall gather
16 information on the debt incurred by Zimbabwe held by
17 international financial institutions and private financial
18 institutions, and the feasibility and advisability of restruc-
19 turing, rescheduling, or eliminating such debt in the fu-
20 ture, including by using the resources of the International
21 Monetary Fund, the International Bank for Reconstruc-
22 tion and Development, and other appropriate international
23 financial institutions.

24 “(d) MULTILATERAL FINANCING CONDITIONS.—The
25 Secretary of the Treasury shall instruct the United States

1 executive director to each international financial institu-
2 tion to oppose any extension by the respective institution
3 of any loan, credit, or guarantee to the Government of
4 Zimbabwe unless the proposed extension meets the fol-
5 lowing conditions:

6 “(1) There are sufficient controls for trans-
7 parency and international oversight of the use of rel-
8 evant funds.

9 “(2) Relevant funds, in cases where the inter-
10 national financial institutions are providing direct
11 funding to or through the Government of Zimbabwe,
12 will not be administered through or in coordination
13 with—

14 “(A) ministries that have not demonstrated
15 a commitment to reform and responsible fiscal
16 management; or

17 “(B) the Reserve Bank of Zimbabwe, un-
18 less there are sufficient guarantees and a pat-
19 tern of evidence that governance problems with-
20 in the Reserve Bank of Zimbabwe have been
21 addressed such that relevant funds will not be
22 redirected for extra-legal purposes.

23 “(3) Relevant funds will not be administered by
24 or directly accessible to individuals or financial insti-
25 tutions sanctioned by the United States.

1 “(e) NOTIFICATION.—

2 “(1) IN GENERAL.—If the United States votes
3 in favor of any loan, credit, or guarantee to the Gov-
4 ernment of Zimbabwe by an international financial
5 institution, the Secretary of the Treasury, in coordi-
6 nation with the Secretary of State, shall notify the
7 appropriate congressional committees within 30 days
8 of such vote and provide appropriate information on
9 such vote pertaining to the conditions in subsection
10 (d).

11 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES DEFINED.—In this subsection, the term ‘ap-
13 propriate congressional committees’ means—

14 “(A) the Committee on Foreign Relations,
15 the Committee on Banking, Housing, and
16 Urban Affairs, and the Committee on Appro-
17 priations of the Senate; and

18 “(B) the Committee on Foreign Affairs,
19 the Committee on Financial Services, and the
20 Committee on Appropriations of the House of
21 Representatives.

22 “(f) WAIVER.—The President may waive the provi-
23 sions in subsection (d) and (e) if the President determines
24 that it is in the national interest of the United States to
25 do so.”.

1 **SEC. 8. AMENDMENT TO THE DEPARTMENT OF STATE, FOR-**
2 **EIGN OPERATIONS, AND RELATED PRO-**
3 **GRAMS APPROPRIATIONS ACT OF 2010 TO UP-**
4 **DATE RESTRICTIONS ON UNITED STATES AS-**
5 **SISTANCE FOR THE GOVERNMENT OF**
6 **ZIMBABWE.**

7 Subsection 7070(i) of the Department of State, For-
8 eign Operations, and Related Programs Appropriations
9 Act of 2010 (division F of Public Law 111–117; 123 Stat.
10 3388) is amended to read as follows: “None of the funds
11 appropriated by this Act may be made available for assist-
12 ance for the central Government of Zimbabwe, except for
13 macroeconomic growth, health, and education assistance,
14 unless the Secretary of State determines and reports in
15 writing to the Committees on Appropriations that the rule
16 of law has been restored in Zimbabwe, including respect
17 for ownership and title to property and freedom of speech
18 and association.”

19 **SEC. 9. ACTIONS TO STOP ILLEGAL DIAMOND FLOWS.**

20 (a) FINDINGS.—Congress makes the following find-
21 ings:

22 (1) According to credible human rights organi-
23 zations, the armed forces of Zimbabwe continue to
24 exert control over diamond mines in the Marange
25 district of eastern Zimbabwe, and have committed

1 horrific abuses against miners and local residents,
2 including extrajudicial killings, beatings, and torture.

3 (2) A review mission of the Kimberley Process
4 traveled to Zimbabwe from June 30 to July 4, 2009,
5 and documented extensive smuggling of diamonds
6 and abuses against civilians by the police and army
7 forces of the Government of Zimbabwe. The review
8 mission reportedly found there to be “credible indi-
9 cations of significant non-compliance” by the Gov-
10 ernment of Zimbabwe with the minimum standards
11 of the Kimberley Process.

12 (3) On December 11, 2009, the United States
13 Senior Advisor to the Permanent Representative of
14 the United States to the 64th Session of the General
15 Assembly stated that the United States has “serious
16 concerns about Zimbabwe’s non-compliance with the
17 minimum requirements of the Kimberley Process,
18 particularly relating to smuggling and grave violence
19 in and around the Marange diamond fields”.

20 (4) The army and police forces of the Govern-
21 ment of Zimbabwe continue to serve primarily as in-
22 struments of ZANU–PF, and their illegal activities
23 involving diamonds continue to fuel the efforts of
24 ZANU–PF to undermine democratic processes and
25 institutions.

1 (b) SENSE OF CONGRESS.—In order to promote re-
 2 spect for the rule of law and to prevent further human
 3 rights violations by state security forces in Zimbabwe, it
 4 is the sense of Congress that, until the Secretary of State
 5 can certify that Zimbabwe is in full compliance with the
 6 Kimberley Process, the President should—

7 (1) press for Zimbabwe to be suspended from
 8 the Kimberley Process diamond certification scheme;

9 (2) work with Zimbabwe’s neighbors as well as
 10 with regional organizations to help stop the flow of
 11 diamonds mined in Zimbabwe from crossing their
 12 shared border; and

13 (3) seek to identify and prepare sanctions pur-
 14 suant to Executive Order 13391 on individuals and
 15 entities funding efforts to undermine democratic
 16 processes and institutions in Zimbabwe through ille-
 17 gal activities involving diamonds.

18 **SEC. 10. UPDATING AND TIGHTENING OF UNITED STATES**
 19 **TARGETED SANCTIONS RELATING TO**
 20 **ZIMBABWE.**

21 It is the sense of Congress that the Secretary of the
 22 Treasury, in close consultation with the Secretary of State
 23 and other relevant officials of the United States Govern-
 24 ment, should regularly review and update targeted sanc-
 25 tions related to Zimbabwe, giving particular attention to—

1 (1) the ways in which certain entities directly
2 support or fund activities in Zimbabwe that under-
3 mine democratic processes and institutions;

4 (2) the role and functions of certain entities in
5 activities critical to economic recovery in Zimbabwe;
6 and

7 (3) how sanctions could be strengthened against
8 those entities that continue to directly support or
9 fund activities that are undermining democratic
10 processes and institutions in Zimbabwe.

11 **SEC. 11. PREPARATIONS TO SUPPORT EFFORTS TO PRE-**
12 **VENT FUTURE ELECTION VIOLENCE AND**
13 **ABUSES.**

14 It is the sense of Congress that the United States
15 Government should begin engaging with international
16 partners and regional governments to develop a coordi-
17 nated strategy to prepare for future elections in
18 Zimbabwe, particularly to help reduce the risk of violence
19 and other abuses related to such elections.

20 **SEC. 12. BRIEFING TO CONGRESS.**

21 (a) IN GENERAL.—Not later than 180 days after the
22 date of the enactment of this Act, the Secretary of the
23 Treasury, the Secretary of State, and the Administrator
24 of the United States Agency for International Develop-

1 ment shall provide the appropriate congressional commit-
2 tees a briefing on efforts made pursuant to this Act.

3 (b) CONTENT.—The briefing required by subsection
4 (a) shall include the following:

5 (1) A description of what technical assistance
6 has been provided by the United States and by
7 international financial institutions to ministries of
8 the transitional Government of Zimbabwe and to the
9 Parliament of Zimbabwe, an assessment of how that
10 assistance has contributed to demonstrable progress
11 on economic and political reforms, and recommenda-
12 tions for any additional changes in United States
13 law or policy that are needed to strengthen the op-
14 portunity for democratic and economic reforms in
15 Zimbabwe to succeed.

16 (2) A description of steps taken pursuant to
17 section 9 to investigate and address the connection
18 between illegal activities involving diamonds and ef-
19 forts to undermine democratic processes and institu-
20 tions in Zimbabwe.

21 (3) A description of efforts made pursuant to
22 section 10 and any changes resulting from the re-
23 view and updating of United States targeted sanc-
24 tions relating to Zimbabwe.

- 1 (4) A description of efforts made pursuant to
- 2 section 11 and progress made toward developing a
- 3 coordinated strategy to prepare for future elections
- 4 in Zimbabwe.

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